

FISCAL NOTE

SB 1967 - HB 1835

March 30, 2007

SUMMARY OF BILL: Creates offense of using a firearm in the commission of a felony. Imposes mandatory minimum sentences, not subject to parole or sentence reduction credits, for the offense. Length of sentence varies from three to six to ten years, depending on the role of the firearm in the felony and the severity of the underlying offense.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$60,323,700 / Incarceration*

Assumptions:

- During FY06 there were 74 admissions to the Department of Correction (DOC) for possession of a weapon by a convicted felon as the primary offense. These persons were prior violent or drug offenders. DOC estimates 75% of these (56) will be convicted of a Class C felony and will serve an additional 0.6 years (an increase from 0.3 years to 0.9 years) as a result of this bill.
- According to DOC, the average operating cost per inmate per day for calendar year 2007 is \$60.16.
- According to the U. S. Census Bureau, population growth in Tennessee has been 1.09 percent per year for the past ten years. Population growth would result in six additional offenders serving additional time in the tenth year. The maximum cost in the tenth year, as required by § 9-4-210, is based on 62 offenders. The cost per inmate at 0.3 years is \$6,592.33 (\$60.16 x 109.58 days). The cost per inmate at 0.9 years is \$19,776.40 (\$60.16 x 328.73 days). The additional cost of increasing the average sentence length is \$13,184.07 (\$19,776.40 - \$6,592.33). The total additional operating cost for 62 offenders is \$817,412.34 (\$13,184.07 x 62).
- According to DOC, in October, 2005, 2.86 percent of the inmate population (547) had possession of a weapon by a convicted felon as a secondary offense. Annual admissions for FY06 were 13,892. DOC estimates two percent (278) of those would have possession of a weapon by a convicted felon as a secondary offense and 75 percent (209) of those would be convicted of Class D or Class E felonies in the first year and would be required to serve three years as a result of this bill.

Population growth would result in 24 additional offenders in the tenth year. The maximum cost in the tenth year is based on 233 offenders serving three years as a result of this bill.

- 233 offenders would be convicted of Class D or Class E felonies and would serve three years. The cost per inmate at 3.0 years is \$65,920.32 (\$60.16 x 1095.75 days). The total additional operating cost for 233 offenders is \$15,359,434.56 (\$65,920.32 x 233).
- The remaining 25 percent (70) would be convicted of Class A, B or C felonies in the first year and would serve six years as a result of this bill. Population growth would result in eight additional offenders in the tenth year. The maximum cost in the tenth year is based on 78 offenders serving six years as a result of this bill.
- Seventy-eight offenders will be convicted of Class A, B or C felonies and will serve six years. The cost per inmate at 6.0 years is \$131,840.64 (\$60.16 x 2191.50 days). The total additional operating cost for 78 offenders is \$10,283,569.92 (\$131,840.64 x 78).
- There were 650 misdemeanor violations of unlawful possession of a weapon during FY06. DOC estimates 50% (325) of those involved firearms and 10% (33) of those were committed by previously convicted felons not involving violent or drug offenses.
- Thirty-three offenders will be convicted of a Class E felony in the first year and will serve 0.3 years (109.58 days). Population growth will result in four additional offenders in the tenth year as a result of this bill. The maximum cost in the tenth year is based on 37 offenders. The cost per inmate at 0.3 years is \$6,592.33 (\$60.16 x 109.58 days). The total additional operating cost for 37 offenders is \$243,916.21 (\$6,592.33 x 37).
- 67 inmates had robbery armed with a deadly weapon as primary offense. DOC assumes 50% (34) of those would have involved firearms. Estimate assumes the charge would be reduced to robbery which would allow adding the sentence for employment of a weapon. Population growth will result in four additional offenders in the tenth year. The maximum cost in the tenth year is based on 38 offenders serving 8.5 years (Class B at 2.4 years reduced to Class C at 0.9 years + 10 years. 10.9 years – 2.4 years = 8.5 years). The cost per inmate at 8.5 years is \$186,774.54 (\$60.16 x 3104.63 days). The total additional operating cost for 38 offenders is \$7,097,432.52 (\$186,774.54 x 38).
- 71 inmates had voluntary manslaughter as a primary offense. DOC assumes 25% (18) of these involved the use of a firearm and would be charged with a Class C felony at 0.9 years plus 10 years for employment of a weapon. Population growth will result in two additional offenders in the tenth year. The maximum cost in the tenth year is based on 20 offenders serving 10.9 years (Class C at 0.9 years + 10 years). The cost per inmate at 10.9 years is \$239,510.80 (\$60.16 x 3981.23 days). The cost per inmate in the tenth year is \$219,734.40 (\$60.16 x 3652.50

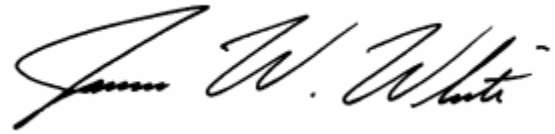
days). The total additional operating cost for 20 offenders is \$4,394,688 (\$219,734.40 x 20).

- 62 inmates had evading arrest/risk of death as a primary offense. DOC assumes 25% (16) of these involved the use of a firearm and would serve 10 years for employment of a weapon. Population growth will result in two additional offenders in the tenth year. The maximum cost in the tenth year is based on 18 offenders serving 10 years. The cost per inmate at 10.0 years is \$219,734.40 (\$60.16 x 3652.50 days). The total additional operating cost for 18 offenders is \$3,955,219.20 (\$219,734.40 x 18).
- During FY06, there were 13,892 admissions to the Department. Approximately 1,826 involved weapon charges as primary or secondary offenses. DOC estimates that one percent of the remaining 12,066 (121) would have possessed a weapon but were not charged because of having a defense to possession. Population growth will result in 14 additional offenders in the tenth year. The maximum cost in the tenth year is based on 135 offenders that would be charged with unlawful possession of a weapon by a convicted felon. Estimate assumes that 75% (101) of these would be convicted of a Class D or E felony and would serve three years. The cost per inmate at 3.0 years is \$65,920.32 (\$60.16 x 1095.75 days). The total additional operating cost for 101 offenders is \$6,657,952.32 (\$65,920.32 x 101). The remaining 25% (34) would be convicted of a Class A, B or C felony and would serve six years. The cost per inmate at 6.0 years is \$131,840.64 (\$60.16 x 2191.50 days). The total additional operating cost for 34 offenders is \$4,482,581.76 (\$131,840.64 x 34).
- 964 inmates had aggravated assault as a primary offense. DOC estimates 25% (241) involved a weapon and 50% (121) of those involved a firearm. Population growth will result in 14 additional offenders in the tenth year. The maximum cost in the tenth year is based on 135 offenders. Estimate assumes 20% (27) of these would be convicted based on serious bodily injury and would serve 10.0 years as a result of this bill. The cost per inmate at 10.0 years is \$219,734.40 (\$60.16 x 3652.50 days). The total additional operating cost for 27 offenders is \$5,932,828.80 (\$219,734.40 x 27).
- 162 inmates had reckless aggravated assault as a primary offense. DOC estimates 25% (41) of these involved a weapon and 50% (21) involved a firearm. Population growth will result in two additional offenders in the tenth year. The maximum cost in the tenth year is based on 23 offenders. Estimate assumes 20% (5) of these would be convicted based on serious bodily injury and would serve 10.0 years as a result of this bill. The cost per inmate at 10.0 years is \$219,734.40 (\$60.16 x 3652.50 days). The total additional operating cost for five offenders is \$1,098,672 (\$219,734.40 x 5).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, reading "James W. White". The signature is fluid and cursive, with the first name "James" written in a smaller, more compact script than the last name "White".

James W. White, Executive Director